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## LECTURES ON THE PHILOSOPHY OF LAW.\*

By JAMES HUTCHISON STIRLING.

## III.

Gentlemen:—In our last lecture, we saw the realization of free-will into a person on the one hand, and property on the other. Free-will itself was the terminal result into which all that held of theory had collapsed—a result which, simply as that and no more, was necessarily undeveloped. But this undevelopedness gives free-will, as we so have it, a character of singleness and oneness; or this undevelopedness and firstness, so to speak, give it a character of abstractness; for that is abstract—as sweetness, whiteness—that is in isolated self-identity only. And we can see that if whiteness is abstract in consequence of its isolatedness to self, for the same reason the broken-off hand of a watch, or a separated main-spring, is also abstract. In short, any one member of a concrete is, being isolated, abstract: so any one moment of the notion, or of a notion—the universal, the particular, or the singular—being isolated, is abstract. Free-will then, as it first emerges, has, being undeveloped, this character of singleness, oneness, and abstractness. But a will, a free-will, single, one, and abstract—that is a person. This personality now must *realize* itself; for if overtly, explicitly abstract, it is also latently, implicitly concrete, and that for no other reason than that it is will—thinking will. But realization takes place always through something else or other; now, to such an abstract *inner*, what can be *other* but a similarly abstract *outer*? and that is an external thing, property.

These considerations are hard, for they are wholly peculiar and wholly new—in this peculiarity and strangeness they may not carry conviction either—still they will be allowed to possess their own subtlety and felicity. Again, it must not escape notice that the machine engaged in the manipulation and working up of all this is the *notion*: we have but a single substance, a single material, all through, passing from roller to roller of the various moments. Will, coming to us as bare result, is the undeveloped universal that, *in itself*, or

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\* Delivered to the Juridical Society, Edinburgh, Nov. 16, 1871.

implicitly, concrete, must strive forward into its correspondent particular, and thence further into its correspondent singular. This is the march everywhere, and, so far at least, we may acknowledge in the person a moment of universality as in property a moment of particularity.

The most common sense passage I can find in Hegel bearing on these points is this: "All things are capable of being made man's property, because man is free-will, and, as such, in and for himself" (that is, responsible, amenable only to his own self); "but what is opposed to him has not this quality. Every man has the right, then, to set his will in the things of existence, to sublate them, and make them his; for they, as external, have no self-end; they are not the infinite reference of self to self" (which every subject is); "they are even to *themselves* externalities. The lower animals, even, are such externalities, and, so far, things. Only will is infinite, absolute to all else, whilst all else is only relative. To make them mine is at bottom, consequently, only to manifest the dignity of my will as compared with external things, and demonstrate that they are not in and for themselves, or have no self-end. The manifestation itself takes place in this way that I set in the particular thing another end than that which it immediately had. I give to the lower animal another soul than what it had. I give it my soul." It is in this way that Hegel places us in presence of free-will and of an outer world in which it is to realize itself; and he really believes that he never makes a single step in advance without its own *deduction*. We are once for all arrived, then, at the notions of person and property: the one, the abstract self-*internal*, immediate; the other, the abstract self-*external*, immediate. This word *immediate* I have used before, and it always gives a certain difficulty; but what is separated, isolated, secluded to its own self, what is abstracted (or abstracted from) is something taken out of all its *bemediating* connections and relations, and so, therefore, something immediate and direct.

Hegel treats the subject of a philosophy of right under the three great divisions of Abstract Right, Morality, and what he calls *Sittlichkeit*; and the principle that guides him in this is, as always and everywhere, the notion. The first division that is, is but right in its universality; the second,

right, in its particularity; and the third, right in its singularity. But, though such is the succession in Hegel, we are not to suppose that the latter members depend upon the former as earlier in time or superior in dignity. That they are *members* is what we must not allow to escape us, and that the truth consequently is the one concrete whole. Still, for all that, Hegel is not quite without an *historical* consideration here—say, in the transition from abstract law to subjective morality. Law, as treated elsewhere, is very often referred to a moral basis: while here, in Hegel, morals, on the contrary, would appear to be referred to a legal basis. Now that is not without a certain *historical* support. It cannot be denied that what Hegel means by morality was represented—fairly represented—nay, very perfectly represented—in the person of Socrates; while what he means by abstract right did not reach full historical development till under the Roman empire. Still it is not in Socrates, but in Christianity, that Hegel acknowledges the veritable historical first of subjective morality, or the law of conscience, inner righteousness, on the one hand, and of the law of love on the other. And surely these are correct ideas—surely it was only after Christianity that the individual, and not isolatedly, but in connection with the whole community, came to know the full import of what is named moral experience. Christianity it was that wrought as a purifying ferment in the souls of men, abasing all the greeds of sense, shaming the lusts and prides and vanities of self, awakening repentance, chastening the heart, and leading the soul generally into candor and simplicity and humility and love. Now that is precisely the position of subjective morality, and as opposed to abstract right. Under the latter the requisite is only to do the right, no matter whether you agree with it or not, and no matter what your motives, intentions, or general spirit, may be. But morality is plainly an internalization of such a stand-point, of such a material. While the standard under law was without, it is now under morality within—it has become conscience. And really the one step may be regarded as having led to the other: only after men had long mechanically and unreflectingly obeyed law did they come to make its prescripts their own principles, did they come to see that these prescripts were but what

their own nature, and no mere external authority, commanded. But the moment the faintest edge of such an experience as that was received into the heart, morality had begun. Morality, then, is but a particularization of law, or it is but law in the moment of particularity. Law, namely, as we have seen, is wholly universal. Its prescripts are directed only to the abstract person, only to free-will as free-will. But there is an advance in concretion now: the person has become a subject, or better, a neighbor. And the very word neighbor opens a vista into a sphere of concrete interests infinitely richer and more complicated than that connected with the abstract rights of a person.

What Hegel means by *Sittlichkeit*, again, is a still higher advance in concretion. This word really means simply morality. The *Sitte* is but the Greek *ἥθος*, the Latin *mos*, our own *custom*. What Hegel sees in it, however, is the substantial custom that has sprung from objective reason, and is fixed, established, stereotyped in the conscience and practice of a people. So it is that I translate it *observance*, sometimes *instinctive*, sometimes *substantial observance*. And these words, I think, will pretty well convey the meaning, though it must be confessed that the task of a translator here is excessively puzzling. One *wrong* translation I will refer to. I have seen the word *Sittlichkeit* translated *conventionality*. But that is a mistake. Early in one's studies, no doubt, such a translation has its own temptations; but it is entirely to miss the matter in hand to yield to them. What we mean by conventionalities are temporary customs, mere arbitrary agreements. Thus it is a convention when leaving home and desirous that your friends should call on you when you return, that you pay them a visit to say good-bye, or, in their absence, leave a card for them with P.P.C. (*pour prendre congé*) written on it. That is a convention. Again, it used to be a custom that when the representatives of a family made their periodical and ceremonious call on another family, the gentleman, in handing in the card for himself and wife, bent in a corner of it with his thumb. Now that is something purely and simply conventional. But such conventionality is very remote indeed from the Hegelian *Sitte*. By it we are to understand something not subjective but

objective, not contingent but necessary, not arbitrary but rational—something fixed, permanent, established—something looked upon as sacred and springing from a sacred source. I have tried all manner of English words for it, and once thought I had got over the difficulty by translating *Sittlich*, *Sittlichkeit*, and *Sitte*, respectively by the terms *ritual*, *rituality*, and *rite*, but had to give them up too, what they suggested being either too ecclesiastical or too externally ceremonial. Were we to reserve the Latin *morality* for Hegel's *Moralität*, and the Greek *ethicality* for Hegel's *Sittlichkeit*, the end so far would be pretty well attained, but we should still want a word for *Sitte*. It is this word *Sitte* that I propose to render by *observance*, and I really have been quite unable to find any single English term that would suit better. Could we use *custom*—the commonest term of all—that indeed would be preferable; but I think that your ears will tell you that that is impossible, at all events at first.

If we consider it well, there is an abstractness, a one-sidedness observable in will, whether as manifested in right, or as manifested in morality; whereas in observance will is concrete, and any such defect disappears. In right, for example, will is realized in something merely external, while in morality, again, it is realized only internally in the contingent individual subject. This is not so, however, in regard to the *Sittlich*, the observational, where what is inner is also outer, and what is outer is also inner. Take filial obedience, for example; *there is a Sitte*, a sacred usage, a civil custom, a substantial observance, and we can see it to be no less real as an outward act than as an inward sentiment, and no less real as an inward sentiment than as an outward act. Societary usage that is as well societary sentiment, or societary sentiment that is as well societary usage—that, then, is *Sittlichkeit*—that, then, is *observance*. In such usage we see society to be in enjoyment of what we may call the second or higher nature; such usage, or the system of such usages, we can see also to be capable of being named the substance of free-will, a substance which each individual free-will, each member of the society knows to be that individual member's own proper substance. *He* then possesses virtue, ethical personality, whose whole nature is permeated and pervaded

by this substantial life ; who regards, accordingly, his particular place in the system as not negative to him, but peacefully accepts it, trusting implicitly in the whole, and ready to sacrifice himself to it; and this is so, not as regards the State only, but as regards every one of its subordinate particular institutions.

We see, then, the nature of Hegel's threefold division of the science of right, and we see more particularly that this division has been prescribed by the notion. The first division, abstract right, or what we may call legality, is will in the universality of the person; the second, morality, is will in the particularity of the neighbor; and the third, *Sittlichkeit*, ethicality, or we may even say politicality, is will in the singularity of the citizen or political subject. Of course, the series legality, morality, politicality, as well as the series person, neighbor, citizen, can only correspond to the series universality, particularity, singularity, when the words of each are precisely understood as Hegel understands them. Understood as we understand them, *person*, *neighbor*, for example, are perhaps each less universal than *citizen*. Both words, indeed—*neighbor* and *citizen*—are, as used here, my own, and there must be seen in them only Hegel's notions. The same principle that conditions the general classifications conditions also the subordinate ones; and when legality or abstract right is divided into Property, Contract, and Penalty, it is still the march of the notion through its moments that Hegel sees and would have us see. What respects form, however, will perhaps be still more intelligible when we draw into preciser consideration the matter discussed.

The essence of property then, as we have seen, is that a physical object—an object without will—is transformed from its own brute externality and meaninglessness into an embodiment of free-will. In property, accordingly, there is a union of two factors, of free-will on the one hand, and of an external object on the other, and this union is as necessary to the one as to the other. If the object acquires meaning and function only when it is taken up into the life of the person, this person for his part can become manifestible only through the object. Singly and in disunion either element is abstract; only in union, only together, are they both con-

crete. From this, then, we see at once the tautology of the prescript that what I can take as property must be *res nullius*—that *ex sans dire*; for what already expresses free-will is already my will, and no longer an alien object that only waits embodiment. Again, the will, as we have it in the person, is, as has already been discussed, very evidently single; what it takes into possession must be single also. It cannot take possession, then, of genera, or of the elements. The person, in his singleness, cannot take possession of the genus vegetable or of the element air. Being single, he cannot make private property of what is universal. Even to make good his right of community in what is universal, this universal itself must be converted into singles, as into breaths of air and draughts of water. We are to perceive here, then, that it is the nature of the person rather than that of the object that is the dictating element; just as it is this person's will, and not the fact merely of his being *first*, that enables him to make anything his. It would be idle for free-will to make its what were already its; and to make mine what is his is to negate free-will, is to negate my own will. For property is an absolute assignment, and no mere result of mutual agreement. *This* is not *mine* simply because of my acknowledgment that *that* is *yours*. This is mine, that is yours, because free-will as free-will has set itself into either. Free-will is embodied in property, and through property is the intercourse of free-will with free-will mediated. But as this is so, or as it is the possession of property that gives objective reality to my free-will, it is my duty to possess property—property, I say, and not such and such property. What and how much property I may possess are not considerations that belong to our present sphere, where we are confined to the abstract right of the person. Of that person, however, it is certainly not only the right, but also the duty, to be a possessor of property. And here I may point out the importance of the lesson indicated. It used to be very much the fashion to run down riches and cry up poverty—especially wherever and whenever it was supposed that the young were in hearing. The bliss of poverty and the bale of riches—this was set us in every copy-line. No page of any primer but was sonorous with it, and it was rounded into our ears in



every new tongue we came to—Latin, or Greek, or French, or German. We heard it in church too, just as we heard it at home, or as we heard it in school. And when we came to the university we were assured by the Professor of Morals that that was philosophy—that that was wisdom. Then we read it in the ancients and we read it in the moderns: Cicero and Horace and the seven wise men, Simonides and Phocylides and the rest, were for ever talking of it; and even in these very days our last great man asserted, as by an authority *de par le roi*, that if he had a true man to bring up with the heart of a man in him, he would say rather let him be poor! It may seem very bold, then, should I at all hint disagreement here with an opinion that has been so long, so variously, and so authoritatively sanctioned. Nevertheless it does seem to me that the effects of this opinion have not been always good. I fear that too many a bright young literary soul has been led away by it, despising money as money, and undervaluing the honest industry that was to bring it, marrying improvidently, living *au jour le jour*, believing that every mouth brought its own bite with it, and trusting quite unmisgivingly to the future, till, having piped his best all his summer of youth like the grasshopper, he was refused food by the ants and told only to dance his best in the winter of his old age. Of course, I would not for a moment have it supposed that I take the opposite extreme, and counsel the pursuit of riches as man's sole business. These very days of ours are not less full of the futility of that vulgarity than of the disappointment and regret that are the end of the former delusion. What I have only to point out here is that it is the duty of man as man to possess property. In truth no man is a man till he is also a proprietor. Then it is only that he has entered into the concrete life of the state, and is of any true value; then it is only that he has attained life—a concrete life for himself. He is a person now, a citizen, a neighbor; no nerve or artery of the whole but meets in him; he lives the whole and enjoys the whole, and feels, in short, that only now properly can he say that he lives at all. How different the young literary enthusiasts who will not make money, but will only pipe! These, after all, live only an abstract life, and they feel themselves in the end, not as their

fellows, but isolated and apart, lonely, useless, miserable. This, then, is the lesson here, that it is about the first duty of manhood to respect property, knowing that only through property does a man enter into the state and become one with the concrete. So it will be advisable that all those young literary enthusiasts who threaten to live only abstract lives should undergo apprenticeship in a lawyer's office. There probably sooner than anywhere else will they be brought to sanity as regards property.

It is the duty, then, of every free-will, of every person, to possess property; and so far all free-wills, all persons, are *equal*. And here it is we get the true light on that equality that is so current among certain political parties now-a-days. All human beings, that is, in so far as they are persons, are not only free but equal. Equality and freedom are by no means convertible terms, however; they are not even in direct, but rather in inverse proportion. Hegel's own expressions in this reference are among his happiest and most exoteric, and I think you will not ask me to beg pardon for following them here pretty closely.

Hegel commences by admitting that it is not incorrect to regard the main interests of a constitution as centering in what the words Freedom and Equality imply; but he complains that, as generally used, they are abstract, and can only lead to the destruction of the concrete that the state is. This concrete itself, the state, is precisely what on one side introduces inequality and must introduce inequality; for the distinctions of rulers and subjects, of ranks and classes, of authorities and of those amenable to these, are inseparable from it. To carry equality rigorously out, then, would be to put an end to these and the state itself. Then it is said, all men are equal by nature; but it is quite plain that, when physical nature is meant, all men are rather unequal by nature; while, by nature the notion being meant, all men are indeed so far equal, but not to the exclusion of infinite inequality otherwise. That we should be pronounced equal as persons, as men—and not, as in Greece and Rome, because we happen to be certain men, and not certain other men—this is not the product of nature but of the consciousness of the deepest principle in our spiritual structure, and of the long

and laborious evolution of this consciousness into its present universality.

Again, as said, equality as persons does not exclude infinite inequality otherwise. That all citizens are equal before the law, has no extension beyond that legal equality of the person; otherwise, or the person apart, we are not more equal before the law than away from the law. It is precisely according to that inequality away from the law that the law itself indeed taxes us. In regard to taxes, it would plainly be monstrous injustice in the law to regard us all as equal, though, at the same time, it must and can be led only by what it sees equal in us in regard to property, age, ability, sex, &c.

As regards freedom, again, it ought not to be taken abstractly as the freedom of subjective self-will. Legal restriction ought to be seen to be the true freedom; and formerly precisely such restrictions used to be called *the freedoms, the liberties*. In effect, every veritable law is a freedom, a liberty, for it is a result of objective reason. In the best sense, it is not true, then, that the state is but the mutual limitation of each other's liberties; in the best sense, on the contrary, the state is a realization of liberty; for, in reality, to restrain particular or formal will is to emancipate universal and substantial will. We see but a similar mistake when it is said, too, that modern nations are more susceptible of equality than liberty; what is in question here is but abstract equality and abstract liberty, and it is only right that abstract presuppositions in regard to liberty, as these are, should be found to *break* on the realm of reality and fact as more rational and powerful in its concretion than they in their abstraction. It is more correct in this reference to say, on the contrary, that the high development of the modern state introduces the greatest concrete individual *inequality*; while, on the other hand, the deeper rationality and the firmer stability of the laws lead to a proportionally greater liberty, which also they can more readily concede and endure. The very word "liberty," moreover, implies a certain antithesis to equality, and the more firmly established liberty is as the security of person and property, as opportunity to develop and make available talent and other advantages, the less there is of equality.

and the more of liberty itself even in a subjective sense, as that of the will of the individual.

These are excellent reflections, gentlemen, and they readily suggest important applications. It is that cry of equality that is the dominant phenomenon of the day now, and we may understand it in its true light by the assistance of these observations of Hegel. The workmen find themselves as good as their masters, the servants as their mistresses, our wives as their husbands; and they all cry equality, meaning only an abstract identity that is utterly impossible. So much does the cry continue extending, nevertheless, that we may presently expect to meet a demand for the equality of children with parents, or to hear the tailor complain that it is very unjust he should be a tailor, the dancing-master similarly rebel against his vocation, and grocers and haberdashers and linen-drappers, and even perhaps lawyers *and* lecturers, all complain that they are very ill-used individuals, and insist on the original identity which is their birthright. That word *identity*, indeed, mirrors the whole matter, and we simply see that the *differences* are tired of being differences, and would fain sink to rest together in the negation of the blank identity which were the only equality. In short, it is the old story of the revolt of the members, the state being substituted for the belly as that that is to be destroyed. It seems indeed to be the creed of the highest enlightenment now-a-days that what is called a state is but an expensive superfluity; that society, civilization, is nothing but the raising of commodities and the exchange of them, and that no control is required there but that of the policeman to keep the workman quiet. Accordingly, with this end in view, we are exhorted to doctor and parson ourselves, and I suppose I may add, lawyer ourselves and lecture ourselves. If we could cure the evil, we must cure it in the root, however; that is, we must quash the raising of commodities itself; for it is quite certain that from that root the whole ramified and overshadowing calamity springs. To raise a single commodity, taking the commodity as a commodity, and not as a single cabbage or a single potato, supposes the whole iniquitous system—supposes workmen and food and clothes and ships and railroads and steam-engines—supposes science, and all the rest, in short;

and all the rest, as the concrete differences, can only be kept together in the single concrete identity, in the single concrete life that is the state. Common sense would seem to suggest, then, that we should be far better employed in telling the story of Menenius now-a-days than in exhorting the hands not to carry and the teeth not to chew.

In further connection with the subject of equality, Hegel refers to the proposal of an equal division of property, and convicts its "emptiness and superficiality" from the very nature of the case. "Not only external nature in its contingency but the entire round of spirit in its infinite individual developments, though under a rational organic whole, falls into *particularity*;" and, in saying as much, Hegel intimates that existence, whether physical or metaphysical, must obey the law that lies in the moment of the notion named the *particular*, and inequality is inevitable—not only so, that is, but we must thankfully see it to be so, and that it is only "an empty superficial *understanding*" which, in its abstractions, can blind itself to it. It is but the same blind understanding, too, that complains of the injustice of nature in the inequality of her distributions; for nature, as without freedom, is neither just nor unjust. As for its being the right of every man to have a sufficiency, Hegel remarks that this, so vaguely spoken, "is only a well-meant (but as what is well-meant generally is) non-objective moral *wish*"; the question at all of sufficiency, besides, not falling to be discussed under property, but under civil society." It is but in harmony with such views that we find Hegel referring to the Agrarian laws and pointing to the triumph—though at some cost to right otherwise—of the more rational moment in the struggle that took place in their regard between public and private property in land. Family Pacts, and *Fidei commissa* in the same connection, Hegel also mentions here as opposed to the right of personality, and consequently to that of property. In regard to Plato's republic, he remarks that it fails in the moment of particularity, and is unjust to the person in making him incapable of private property; and as for pious benevolent brotherhoods for a community of goods, we are told that such an idea may present itself without difficulty to a moral imagination that misunderstands the nature of right, free-

will, of spirit, in its moments, and reminds us that Epicurus objected to some friends of his who had made such proposals that, in the moral and religious reference, they are bad, for they manifest mistrust; and those who mistrust each other are not friends. "Further," observes Hegel, "the equality which might be introduced as to distribution of goods, would, depending as these do on industry, speedily dissolve itself again. But what is not to be done, neither shall it be tried to be done. For men are indeed equal, but only as persons, only as regards the principle of possession. By virtue of that principle it is the duty of every one to possess property. If we will speak of equality, this, then, we must regard as the only one. But the question of particularity, what and how much I may possess, that belongs elsewhere; and the allegation is false that right demands equality of property for all of us, for right demands only that each of us shall have property. Rather it expressly is in particularity that inequality has its place, and equality there were unright." In short, private property is a necessity of reason. Free-will must realize itself; that is, necessarily in an outer as outer. Will as will is also singular or individual. Property, therefore, is personal—is *this* particular property—is mine—is this particular property of this particular me. "Seizure is the enunciation of the judgment that a thing is mine. My will has subsumed it—given it that predicate of mine. It is the right of will so to subsume in itself all external things whatever, for it is in itself the universal; while they, not referent of themselves to themselves, are only under necessity and not free. It is in right of this relation that man takes to himself all outer things, and makes of them other things than they are. He treats them so only in accordance with their veritable nature." Hegel considers this to be the case even as regards the body and life itself: those, "like all other things," he says, "I possess only *in so far as it is my will*"; and he adds, "the brute cannot mutilate or put an end to itself—only man can. The brute has itself indeed in possession; its soul possesses its body; but it has no right to its own life, because it does not will it." Of course, if it is as will-less that external things are capable of being taken into possession, the same reason applies to the lower animals, and

we may reconcile ourselves to the whole position, it being premised as a necessary and indispensable condition that there shall be no cruelty, that they shall be with us happier even than they would have been with nature. As for the putting of them to death, that, as far as it is only that, is not cruelty. An animal reflects not, it knows nothing of death, thinks nothing of death; its life is as it were infinite, an infinite affirmation; for of the two negatives, birth and death, between which this affirmation hangs, it knows nothing; its life, consequently, is fairly infinite, and death is no diminution to it. How different with us!

"We look before and after,  
And pine for what is not;  
Our sincerest laughter  
With some grief is fraught:  
Our sweetest songs are those  
That tell of saddest thought."

Man's life alone of all below is to its own self a life of limitation, a life of finitude: all other lives, even those of what is inorganic, if we may figure its existence so, are to their own selves infinite; for to their own selves they begin not, and neither do they end. Strange, too, it is the very finitude of them that makes their infinitude: it is man's very infinitude—the infinitude of his thought—that makes the finitude of his life. And this may be regarded as, in its way, an argument for the immortality of the individual soul; only such immortality were justice to man, for the privilege of reason is but a privilege of pain.

To Hegel, then, even the body—nay, the mind itself—requires to be taken possession of to become in actuality ours. Culture, education, is required for both. The body, in the immediacy of its existence, is inadequate to the soul, and must be *made* its ready organ and its animated tool. The mind, too, is at first, as it were, immersed in nature, and requires enfranchisement. "This enfranchisement is in each subject the *hard labor* against mere subjectivity of action, and against the immediacy of appetite, as against the subjective vanity of feeling, and the arbitrariness or caprice of self-will. But through this labor it is that subjective will attains to objectivity, and becomes capable and worthy of being the *actuality of the idea*. For so particularity is wrought into

universality, and through universality becomes the concrete singular."

My body, as mine, must be to another sacred, then ; for violence is done my will when violence is done my body. *My* freedom is my body's freedom, and I cannot be degraded into a beast of burden. It is this immediacy of body to mind that makes the difference between an offence to the person and an offence to one's more external property. As regards monstration of possession, the human shape divine is for personality alone ample credentials and authenticity enough ; but it is otherwise in regard to external things generally, for the possession of which monstration is indispensable. It is only children, as Hegel points out, who allege bare will as proof of property and as against monstration ; and it is certainly not uncommon to find one child trying to prevent another from seizing something by calling out, "It's mine." Mere will will not suffice men, however ; for them monstration of some kind is imperatively necessary, and rationally so, for an outward objectivity can alone guarantee the inward subjectivity. The setting of will in an object is certainly the notion of property, but there is required also a realization of this.

Seizin, seizure, occupation, possession, or the taking into possession, appropriation, &c.—the mode of this varies, and must vary, according to infinite conditions bearing on the nature of the object and the power of the individual. As a general rule, it may be said that the more I introduce formation into anything, the more I make it mine. It does not follow, however, that, so to speak, only *mine* in it is mine ; that is, that the form alone is mine. If the form is mine, so also is the matter ; and it is a mere idle subtlety on the part of Fichte to suggest that the gold cup which I have made a cup is only my cup, and that it is another's to take the gold if he can. Truly, if he can ! A substance without qualities is an empty abstraction, and for the rest it is in the substance that I have set my will, and the formation is only a sign thereof. In such cases there is really nothing, then, that, as masterless, another may take. Hegel treats the whole subject of possession under the three heads of Seizure, Use, and Alienation. and affects still to see in this the moments of the notion. We may say, for example, that the affirmation of will in an object



corresponds to the moment of simple apprehension, while *will* that only uses an object only *negates* it—a process, as it were, of judgment; and *will* that alienates an object, returns out of externality into its own self, which may be regarded so far as a moment of reason. For I may remark here, as I have remarked already, in the manipulation of the moments, it is often a convenience to substitute the concreter moments of simple apprehension, judgment, and reason, for the more abstract ones of universality, particularity, and singularity—a substitution for the rest that throws its own light on the nature of the general ideas involved, which, however, I hope my first lecture demonstrated at full. To correlate seizure, use, and alienation, with the moments of the notion, is nevertheless, I fear, somewhat forced—a remark that must be extended perhaps to Hegel's immediate division here of Appropriation into Bodily Seizure, Formation, and Designation. In that triplet Hegel also affects to see an adumbration of the moments of the notion, and points out that they are—which indeed they are—a rise in generalization, a rise from individuality to universality.

I know not that it is worth while for me to enter at length into all that may be said on these three forms of appropriation. Knowing that I have to say so much in these lectures that is hard to understand, there is a certain temptation to expatiate on what at length will prove universally intelligible, and so get credit, as it were, for having said something at last; but it appears to me to belong far more nearly to my duty to occupy myself rather with what is difficult, and so do at least some actual work in the way of explanation. Of the natural limitations of *bodily seizure*, of its extension by inference to what is in connection with the amount seized, or of its extension in actual fact through artificial means—of all that I think I need say nothing, for a little reflection will suggest it to every one. As regards what is referred to as *connections*, for example, there are conterminous rivers, seas, lakes, pastures, and hunting grounds—there are rocks and minerals—there are alluvial deposits, strandings and wreckings, waifs and strays, flotsam, jetsam, game, &c. As concerns such things, it is the *understanding* that

decides with its *grounds* and *counter-grounds*, and not the notion with its moments of reason.

What concerns *formation* is as exoteric as what concerns bodily seizure, and may be perfunctorily passed with quite as little scruple. It is evidently a more perfect form of monstration as a more permanent and complete one. The cultivation of the soil, the planting of trees, the raising of cattle, must all be regarded as instances of it. The protection of game may also be regarded as a species of formation, and so also may the pasturing, hunting, and fishing of nomads, or other people that come and go, though, so far as monstration is concerned, they are less perfect. I add also that no formation can make a slave, can make property of a human being; and the reason lies not in any expediency of the understanding, but in reason itself, in the notion: man is free-will, and must be respected as such. It is to be allowed, however, that in certain past times slavery was not so wholly unjustifiable, so far, that is, as many men then had not yet taken possession of themselves, had not yet formed themselves into free-will, but were, so to speak, in mere undeveloped externality and naturality, creatures simply of instinct and brute nature. Now, however, that the seat of industry is the ethical state, slavery is no longer possible, for the ethical state is but the realized idea of liberty.

As for the remaining mode of occupancy, *designation*, or the employment of signs, it is pleasant to see that such a man as Hegel, even with such an infallible touchstone and test in hand as the notion, must have had considerable difficulty in deciding as to what he was to say of it, whether he was to say that it was more perfect or less perfect than the others. Understanding—and with all the mooning madness that his unintelligible dialect and dialectic have attached to him, Hegel's understanding is really about the toughest and soundest going—understanding seems to have led him to say, in the first instance, as to his pupils at Nürnberg, that "occupancy by mere designation of the object is imperfect." And really the attachment of a mere sign, some mere badge, some mere ticket, to an article, appears at first sight about the most partial, perishable, and feeble way of seizing that

one can well imagine. So it is we find Hegel remarking in those Nürnberg days: "The sign, token, or ticket, that does not constitute, as formation does, at the same time the thing itself, is an object that has a signification which lies not in its own nature, but is foreign to it; while, on the other hand, that which is signified again, has a nature alien to *its* nature. Designation is therefore arbitrary. What a thing shall be the sign of, is more or less a matter of convenience." Even in the text of the *Rechtsphilosophie*, something of hesitation as to the relative ranks of the three modes of seizure still unmistakably betrays itself. There bodily seizure is spoken of as "on the sensuous side the completest mode, though otherwise only subjective, temporary, and restricted." "Formation" is called "the seizure the most adequate to the idea, as bringing to unity in itself both the subjective and the objective element." Nay, in the *Rechtsphilosophie* it is directly said of designation itself that it is "very indefinite." It is in what are called the *Zusätze*, the additions after his death from public lectures, as supplied by students or his own manuscripts, that we find Hegel at last doing designation the justice of acknowledgment which he had all along done it of position: it was always third. There he points out the rise in generalization represented by the three modes in their relative places, which I have already alluded to; characterizes designation as essentially intellectual, and therefore easily applicable to an entire whole; and finally concludes thus: "Occupancy by means of designation is the most perfect of all, for the other kinds of it are also more or less of the nature of a sign. When I seize a thing, or form a thing, the ultimate import is always a sign that, to the exclusion of others, I have set my will in the thing. The notion of a sign is namely this, that a thing does not stand for what it is, but for what it signifies. A cockade signifies, for example, the nationality of a man, though the color has no connection whatever with the nation, and exhibits not itself but the nation. By this, that he can give a sign, and by its means acquire, man shows his sovereignty over things."

Here, then, we see that Hegel is led to the truth at last, even by his own notion; for there is no doubt but that designation, as intellectual, is the preferable mode of seizure.

Thus it is that the mark, the token, the ticket, however insignificant, becomes significant. It is a great help and a welcome encouragement to us poor mortals, however, to see our own weaknesses and hesitations reflected in a Hegel, and to know thus that we possess a common nature even with him.

The transition from seizure to use is very characteristic of Hegel, and, of course, accomplished through the *notion*. It is impossible to express this better than Hegel does; but unfortunately it is also impossible to find direct equivalents in English for Hegel's German terms. I must content myself with some faint adumbration of it. In seizure, will has made a thing *its*. The will is thus as it were *positive* in the relation, and the thing *negative*. But the will thus particularly determined by the thing is will in a particular volition, or particular will in a desire, and the negative thing further is, at the same instant determined as only *for* it and *servicing* it, *ministering* to it. We have thus a particular will *using* a particular thing. If any one will take the trouble to analyze this, he will find that our last result has simply been put into the power of the Notion as so much material to grind, which it accomplishes through its successive rollers of the universal, the particular, and the singular moments. The illustration of Hegel's general procedure, and the source and true nature of its figurativeness contained here, is, as it appears to me, exceedingly telling.

The definition of use that is evidently the consequent result is this: "Use is the realization of my desire through the alteration, destruction, consumption of the thing, the selflessness of whose nature is thus manifested, and which accordingly accomplishes thus its destiny." Hegel is said to have exclaimed once at table when the dishes were long of coming, "Only let them come—we will soon achieve on them their own destiny." He must, plainly, have had then in mind this sentence of his own composition.

Hegel remarks of use that it is the *real* side of property, and that the perception of this lies at the bottom of the pretext put forth often in cases of wrongful occupation, that what is so occupied was unused. Nevertheless he decides that property is the universal, use the particular, and that, in the *first* instance, it is the former must be deferred to.

Still he observes further, that formation, designation, &c., are in themselves *external*, unless will, actually present, give them meaning and value. Property, then, become masterless, as devoid of actual will, may be lost or acquired, in lapse of time, through prescription—which has thus a philosophical basis, and not one of mere expediency. For will to have, it is necessary for will to manifest itself. National monuments are national property, so long as the national honor and memory live in them: when these cease, they become the prey of him who likes. The extinction of copyright depends on the same principle, though in an inverse manner: literary productions become in lapse of time a universal property, and pass into contingent private possession. Mere *land*, as burying ground, or otherwise privileged to non-use, involves a simply arbitrary unactual will, by infringement of which no veritably real interest is injured, and respect for which, therefore, cannot be guaranteed. Hegel has several very fine observations here on attempted distinctions between property and use, on partial and temporary use, value, &c.; but at present I can only refer you to them. It is in this connection that he remarks, “It is more than fifteen hundred years since the liberty of the person through Christianity began to flourish, and became a universal principle for a part—a small one indeed—of the human race. The liberty of property, however, has only since yesterday, we may say, been here and there recognized as a principle. An example from universal history of the length of time required by Spirit for its advance in self-consciousness—and a rebuke to the impatience of foolish opinion.”

At our next meeting I shall finish the general subject, and make some remarks on books.

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